IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1738 OF 2005
IN
SUIT NO. 1831 OF 1999

Mrs Roopa Subodh Sejpal ... Plaintiff
vs

Shri Rajesh J.Kothari & ors.. Defendants

&

Shri Nilesh.Bharani .. Applicant

None for Applicant in supp of **N.M.**

Mr.B.G.Saraf for Plaintiff to show cause

None for Defendants

Mr D.V.Deokar 1st Asst to C.R. present
CORAM : SMT ROSHAN DALVI JJ.
DATE: 30th June, 2006

P.C.

1. This Notice of Motion is taken out upon constraints of the applicants who has blocked his finance in purchasing a flat in the suit building from the Court Receiver who has been appointed in respect of the entire building. The applicant has deposited Rs.24.5 lacs with the Court Receiver. That amount was to be used for completion of the construction of

the suit building. Despite efforts of the Court Receiver no contractor has been obtained for carrying out further work. The amount of the applicants therefore blocked up. The applicant has applied for refund of his amount with interest.

2. It would be most unjust to keep the amount of the applicant blocked specially if the Court Receiver is not able to carry out the construction work to make the applicant 's flat habitable. No purpose is served in handing over the possession of the flat to the applicant if he is unable to actually use and occupy the premises for which he has deposited the amount with the Court Receiver.

3. Hence, the applicant must be returned the amount deposited by him.

O R D E R

. The Court Receiver shall refund Rs.24.5 lacs

deposited by the applicant with the Court Receiver in respect of Flat No.601 in the suit building. The Court Receiver shall not be liable to pay any interest thereon. The amount shall be refunded forthwith. Notice of Motion disposed of accordingly.

(Smt Roshan Dalvi, J)